

**AMENDED MINUTES
HAMPTON ZONING BOARD OF ADJUSTMENT
THURSDAY, April 19, 2007**

MEMBERS PRESENT: Tom McGuirk, Chairman
Robert V. Lessard
Jennifer Truesdale
Bill O'Brien
Bryan Provencal

OTHERS PRESENT: Kevin Schultz, Building Inspector
Shirley Doheny, Recording Secretary

The meeting began with the Pledge of Allegiance. Vic Lessard was presented with a cake for his birthday. Vic Lessard asked that the Board vote on the amended rules. Bill O'Brien first motioned that the notification fee be raised to \$7.50, seconded by Tom McGuirk. Vote 5-0, Motion passed.

Mr. O'Brien then motioned to adopt the Rules and Procedures dated April 9, 2007, seconded by Tom McGuirk. Vote 5-0, Motion passed.

Mr. O'Brien stated that a request had been made to withdraw petition 12-07.

Mr. Lessard asked for a motion for a new chairperson. Brian Provencal motioned that Tom McGuirk become Chairman, seconded by Jennifer Truesdale. Vote 4-0-1, Motion passed.

Vic Lessard motioned that Bill O'Brien become Vice-Chairman, seconded by Brian Provencal. Vote 4-0-1, Motion passed.

Brian Provencal motioned that Jennifer Truesdale become Clerk, seconded by Vic Lessard. Vote 4-0-1, Motion passed.

09-07 The petition of William & Kathleen Mercer for property located at 170 Little River Road seeking relief from Articles 1.3 and 4.5.2 to build a three-season room over existing deck. This property is located at Map 164, Lot 18 in a RA zone.

William Mercer came forward asking for a variance. He went through the five criteria as presented in the petition.

Questions from the Board

None

Comments from the audience

None

Back to the Board

Mr. O'Brien questioned the answer on 2a to verify that the petitioner does not encroach on the neighbor's lot. Mr. O'Brien also confirmed that the relief sought is only 2'8".

Mr. Lessard motioned that the petition be granted, confirming that the variance being asked for is 2'8", seconded by Jennifer Truesdale. Chairman McGuirk polled the Board regarding the five criteria.

Vote: 5-0

Motion Granted

10-07 The petition of Harold Smalley, Jr. Trust, thru Richard Smalley, for property located at 32 Boars Head Terrace for relief from Articles 4.1.1, 4.5.1, 4.5.2 and 4.5.3 to allow construction of a new dwelling with less than the required setbacks (front, sides and rear). This property is located at Map 267, Lot 19 in a RA zone.

Henry Boyd from Millenium Engineering came forward with Mr. Smalley. He showed drawings of two proposed options stating that option 2 is the preferred option. He went through the criteria as presented in the petition.

Questions from the Board

Mr. O'Brien stated that he believes it is too much for a small lot. He asked where the parking would be. He stated that they didn't even meet the setbacks for the BS zone and they are in a RA zone. Mr. O'Brien asked if floor plans and elevation plans had been submitted. They had not been submitted. Mr. O'Brien stated that they have another option because Mr. Smalley owns the lot next to this lot. Mr. O'Brien suggested a lot line adjustment could be made to make two lots out of three.

Comments from the audience

None

Back to the Board

Vic Lessard asked what the plan is for the middle lot and suggested a possible lot line adjustment to make two lots from the three. Mr. McGuirk expressed concern about the parking. Mr. McGuirk suggested allowing the petitioner to withdraw. Mr. Lessard stated they would like to see elevations and floor plans.

Mr. Lessard motioned to continue the petition to be first on the agenda of next month's meeting and that elevations and floor plans be provided, seconded by Jennifer Truesdale.

Vote: 5-0

Motion to continue granted

11-07 The petition of Ann & Charles Hardy and Patricia & Matthew Meagher for property located at 11 Bradford Avenue seeking relief from Articles 1.3 (as to 8.2.3) to construct a third floor hip-roof dormer with roof deck that do not meet the setback requirements, but do not extend beyond the footprint of the existing dwelling. This property is located at Map 293, Lot 145 in a RB zone.

Peter Saari came forward with Mr. Hardy. Atty. Saari went through the criteria as presented in the petition. The current floor plan doesn't allow them to get into the living room without going through a bedroom.

Questions from the Board

Mr. O'Brien asked if they had submitted floor plans. Mr. Saari stated that they would only be putting one bedroom on the second floor. Mr. O'Brien also asked about parking. Mr. Hardy stated that they park on Bradford Ave, and in the driveway as well as 3 leased spaces on Haverhill Ave.

Comments from the audience

None

Back to the Board

Mr. Lessard asked Mr. Higgins if he had any input. Mr. Higgins stated that the driveway goes with the front house. The three units in the rear have parking spaces on Haverhill Ave. Mr. O'Brien motioned that the petition be continued and be placed second on next month's agenda. After more discussion, the petitioner amended the proposed dormer plans to reflect that a wall will be taken out on the second floor and one bedroom put in the proposed dormer.

Mr. Lessard motioned to approve the petition with the additional floor plan showing that a bedroom has been taken out and a bedroom added on the third floor, seconded by Mr. O'Brien. Chairman McGuirk polled the Board regarding the five criteria.

Vote: 5-0

Motion Granted

12-07 The petition of Richard & Patricia Higgins for property located at 119 Kings Highway seeking relief from Articles 4.1.1, 4.5.1 and 4.5.2 to remove existing house and replace with a new one which slightly encroaches onto the front setback and side setbacks at two locations. This property is located at Map 197, Lot 6 in a RA zone.

Petition 12-07 was withdrawn

13-07 The petition of William Nyhan for property located at 3 Gale Road seeking relief from Articles 2.3.4.A and 2.3.7c-a 3 to allow for the construction of a single family home on this existing 5+ acre lot of record. This property is located Map 23, Lot 4-1 in a RAA zone.

Atty. Steve Ells came forward with Mr. Nyhan. Atty. Ells gave some history regarding 3 Gale Road. Mr. Ells stated that due to fairly recent changes in the Hampton's wetland zoning ordinance, Mr. Nyhan must first obtain variances from the Zoning Board, a special use permit from the Planning Board after consultation with the conservation commission and the State of NH must approve the design for the septic system before he can build a home on the lot. They do not have the 75 feet setback called for by Hampton's ordinance. They need 60,000 sq. ft. of upland to qualify to use the wetland to meet their density. They have slightly more than 5,000 sq. ft. of upland. Atty. Ells went through the criteria as presented in the petition. Any home that might be built would be subject to protective covenants.

Questions from the Board

Mr. O'Brien confirmed that there is no way to meet the 75 foot setback. There is no other location to put the house on the lot.

Comments from the audience

None

Back to the Board

Mr. Lessard stated that he would want to make sure that any motion would be subject to the Conservation Commission, the Planning Board and State of NH approvals. Jennifer Truesdale motioned to grant the petition subject to said approvals, seconded by Bill O'Brien. Chairman McGuirk polled the Board regarding the criteria.

Vote: 5-0 Petition Granted

14-07 The petition of Robert Matthews for property located at 4 Francis Street seeking relief from Articles 1.3, 4.5.2, 4.5.3 and 4.8 for rear and side setback relief to enable petitioner to remodel unit and relief from sealed surface limit of 85% where 86.3% is proposed. This property is located at Map 275, Lot 33 in a RCS zone.

Mr. Matthews came forward. He went through the criteria as presented in the petition. Mr. Lessard raised questions about the parking. Mr. McGuirk asked if 4 Francis Street encroached on 6 Francis Street. Mr. Matthews presented a letter from the owner of 6 Francis Street stating that she would approve a property line adjustment. He stated that there is sufficient parking to park parallel to Francis Street side. After further discussion, concern was raised regarding the wording in the petition, stating this is to remodel with no mention of an addition. Bill O'Brien questioned whether this petition has been properly notified? The question is whether or not it is a remodel or an addition. Mr. Schultz expressed concern regarding which relief would be given. There is presently no lot line adjustment therefore the distances are unknown. Mr. McGuirk doesn't believe they have enough information to vote on this petition.

Vic Lessard motioned to allow Mr. Matthews to withdraw his petition without prejudice, seconded by Brian Provencal in order to allow proper notification and obtain additional information needed.

Vote: 5-0 Motion to withdraw allowed

BUSINESS SESSION

1. Election of Officers
2. Adoption of Rules of Procedure
3. Adoption of Minutes
4. Rate increase for abutter's fee to \$7.50
5. Motion for Rehearing – 501 Winnacunnet Road #05-07

The Board engaged in a lengthy discussion regarding clarification of what had been granted in petition 19-06. Atty. Gearreald's letter of opinion stated that the petitioner had approval for the original cottage-style cape but that the Zoning Board is in the best position to make that determination. The Board agreed that they had given permission to keep the foundation that was already there.

Brian Provencal motioned that in way of clarification, the existing full basement foundation may remain as is and the others will be slab type foundations and the house design approved is what is shown on plan 04-316.

VOTE: 3-0-2 (Lessard and O'Brien)

Motion for Rehearing for 501 Winnacunnet Road #05-07

The Board took a break in order to read the motion for rehearing. The Board carefully read and reviewed the petition during the break.

The Board is in agreement that numbers 1-16 are statements of fact and quotes from the zoning ordinance.

#17 Opinion of the abutter

#18 Opinion of the abutter

#19 Quote from the zoning ordinance

#20 Quote from the zoning ordinance

#21 Quote from the zoning ordinance

#22 Statement of fact

#23 Statement of fact

#24 Statement of fact

#25 Statement of Opinion of the abutter

#26 Statement of opinion of the abutter

Vic Lessard moved to deny the rehearing because no new information was brought forward.

Vote: 3-0-2 (McGuirk, Truesdale) Motion for rehearing denied

Review of Minutes of 3/19/2007, correction of date, May to March.

Minutes were approved as amended

Vic Lessard motioned to adjourn, seconded by Jennifer Truesdale.

Meeting adjourned.